

subpart, the “Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges” established by the Secretary at 29 CFR part 18 shall apply to administrative proceedings under this subpart.

(b) As provided in the Administrative Procedure Act, 5 U.S.C. 556, any oral or documentary evidence may be received in proceedings under this part. The Federal Rules of Evidence and subpart B of the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges (29 CFR part 18, subpart B) shall not apply, but principles designed to ensure production of relevant and probative evidence shall guide the admission of evidence. The administrative law judge may exclude evidence which is immaterial, irrelevant, or unduly repetitive.

§ 655.73 Service of pleadings.

(a) Under this subpart, a party may serve any pleading or document by regular mail. Service on a party is complete upon mailing to the last known address. No additional time for filing or response is authorized where service is by mail. In the interest of expeditious proceedings, the administrative law judge may direct the parties to serve pleadings or documents by a method other than regular mail.

(b) Two copies of all pleadings and other documents in any administrative law judge proceeding shall be served on the attorneys for the WHD Administrator. One copy shall be served on the Associate Solicitor, Division of Fair Labor Standards, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-2716, Washington, DC 20210, and one copy shall be served on the attorney representing the Administrator in the proceeding.

(c) Time will be computed beginning with the day following service and includes the last day of the period unless it is a Saturday, Sunday, or Federally-observed holiday, in which case the time period includes the next business day.

§ 655.74 Conduct of proceedings.

(a) Upon receipt of a timely request for a hearing filed pursuant to and in accordance with § 655.71, the Chief Administrative Law Judge shall promptly appoint an administrative law judge to hear the case.

(b) The administrative law judge shall notify all parties of the date, time and place of the hearing. All parties shall be given at least 14 calendar days notice of such hearing.

(c) The administrative law judge may prescribe a schedule by which the parties are permitted to file a prehearing brief or other written statement of fact or law. Any such brief or statement shall be served upon each other party. Post-hearing briefs will not be permitted except at the request of the administrative law judge. When permitted, any such brief shall be limited to the issue or issues specified by the administrative law judge, shall be due within the time prescribed by the administrative law judge, and shall be served on each other party.

§ 655.75 Decision and order of administrative law judge.

(a) The administrative law judge shall issue a decision. If any party desires review of the decision, including judicial review, a petition for Administrative Review Board (Board) review thereof shall be filed as provided in § 655.76. If a petition for review is filed, the decision of the administrative law judge shall be inoperative unless and until the Board issues an order affirming the decision, or unless and until 30 calendar days have passed after the Board's receipt of the petition for review and the Board has not issued notice to the parties that the Board will review the administrative law judge's decision.

(b) The decision of the administrative law judge shall include a statement of findings and conclusions, with reasons and basis therefore, upon each material issue presented on the record. The decision shall also include an appropriate order which may affirm, deny, reverse, or modify, in whole or in part, the determination of the Administrator, WHD; the reason or reasons for such order shall be stated in the decision.